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In re Application of
Michael P. Remington et al.
Application No. 10/797,426
Filed: March 10, 2004

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AUG 04 2004

OFFICE OF PETITIONS

: DECISION GRANTING
: PETITION

This is a decision on the petition, filed July 7, 2004, which is being treated under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of March 10, 2004.

The application was filed on March 10, 2004, without drawings.¹ Accordingly, on May 26, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" stating that no filing date had been assigned because the application was deposited without drawings, and requiring drawings be filed if necessary.

In response, on July 7, 2004, the present petition was filed. The petition states that the drawings are not necessary for an understanding of the subject matter sought to be patented. Petitioners request that the application, without drawings, be accorded a filing date of March 10, 2004.

It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).² Since the application was filed with at least one claim directed to a process or method, the application should have been treated as an application for which a drawing is not necessary and the Office of Initial Patent Examination should have mailed a "Notice Of Omitted Item(s)." See MPEP § 601.01(f).

In view of the above, the Notice mailed May 26, 2004, is hereby withdrawn. The application is accorded a filing date of March 10, 2004, without drawings.

¹35 U.S.C. § 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

²MPEP 601.01(f).

The petition is granted. The petition fee in the amount of \$130.00 has been credited back to deposit account no.13-1816.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of March 10, 2004, and for an indication on the bib-data sheet that no sheets of drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned Petitions Attorney at (703) 305-4497.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions